

## **ADMINISTRATIVE PANEL DECISION**

Cisco Technology, Inc. v. Jose Quihue Cusi  
Case No. D2023-4438

### **1. The Parties**

The Complainant is Cisco Technology, Inc., United States of America (“United States”), represented by Fenwick & West LLP, United States.

The Respondent is Jose Quihue Cusi, Peru.

### **2. The Domain Name and Registrar**

The disputed domain name <ciscobolivia.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Customers of Namecheap, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 30, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 7, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 1, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on December 6, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

The Complainant owns a portfolio of trademarks pertaining to its business and that of its licensees. Cisco Systems, Inc is the primary licensee of those trademarks and the primary public face of the CISCO business in the world. The mentioned entities are leaders in technology providing a variety of products and services related to communication and networking.

The trademark CISCO has been recognized as well known by prior UDRP panels. The Complainant owns many trademark registrations worldwide such as the following:

1. Peruvian Trademark Registration No. 019839, registered on March 24, 1998;
2. Peruvian Trademark Registration No. 86960, registered on February 25, 2003; and
3. United States Trademark Registration No. 1542339, registered on June 6, 1989.

The Complainant included full listings of marks registered in jurisdictions around the world and not the certificates of registration. The above information is based on the listings submitted.

The Complainant also has many domain names which contain the trademark CISCO such as <cisco.com>, <cisco.co.uk>, and <cisco.us>, etc.

The disputed domain name was registered on November 19, 2022, and resolves to a website that purports to offer courses that are offered by Cisco. The Respondent is based in Peru.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to a trademark or service mark in which the Complainant has rights as it incorporates the Complainant's trademark in its entirety. The inclusion of "bolivia" gives the impression that the disputed domain name directs to the Complainant's official website for that country. The addition of geographic terms does not sufficiently differentiate the disputed domain name as per prior UDRP panels.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent's name is privacy protected. The Respondent is not authorized by the Complainant to use its trademark. The use of the disputed domain name cannot be considered a *bona fide* offering of goods or services or legitimate noncommercial or fair use. The website to which the disputed domain name resolves attempts to emulate the look and feel of the Complainant's website. The website at the disputed domain name advertises access to Cisco's networking academy certification materials in order to collect personal information, which is an illegal activity.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent is attempting to pass itself off as the Complainant for commercial gain by creating a likelihood of confusion. The Respondent had actual knowledge of the Complainant. The Respondent is using the disputed domain name in order to attract Internet users by creating confusion in order to collect private information and is thus using the disputed domain name for phishing.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "bolivia", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, impersonation/passing off as the Complainant and claiming to offer courses offered by the Complainant, which could lead either to collecting information from registrants, i.e., phishing or to collecting registration fees, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark. The Respondent clearly knew of the Complainant's business and trademark as the disputed domain name resolves to a website which attempts to pass off as the Complainant's website and pretends to offer courses offered by the Complainant. The nature of the disputed domain name suggests affiliation with the Complainant as it incorporates the Complainant's trademark in full. The use of the geographical term "bolivia" reinforces the impression that the disputed domain name is the Complainant's website for the Bolivian market.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, phishing, impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

### **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <ciscobolivia.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: December 11, 2023